



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 27, 1993

Ms. Martha C. Wright
Wright & Associates, P.C.
P.O. Box 531777
Grand Prairie, Texas 75053-1777

OR93-212

Dear Ms. Wright:

The Grand Prairie Independent School District (the "school district"), which you represent, received a request for two items:

1. The "[m]onthly payments to Wright and Associates from May 1, 1990 through April 1, 1992 . . . [which] should be by the month and state what the expenditure is for;"
2. The "[c]omplete audit of all expenditures from bond fund . . . [which] should show what contract the expenditure was charged to, payee, date, base amount and all changes to base amounts."

Pursuant to section 7 of the Texas Open Records Act, article 6252-17a, V.T.C.S., this office addressed in Open Records Letter OR93-090 (1993) your contention that the requested information is excepted from required public disclosure under sections 3(a)(1), 3(a)(3), and 3(a)(14) of the Open Records Act. We withheld, however, a determination regarding the applicability of section 3(a)(7) to the first requested item, pending resubmittal of the requested information with markings corresponding to the information for which you seek section 3(a)(7) protection.

You have submitted information you say will be made available to the requestor in its entirety (Exhibit "B"). Exhibit B is comprised of 25 monthly billing statements from your law firm to the school district, which indicate the balance due with a breakdown of the number of hours charged, the hourly rate, costs incurred and a fee for the first fifteen hours of service. You have also submitted copies of more complete billing statements from your law firm to the school district, which indicate the date, the professional services rendered, the initials of the attorney, the number of hours, and the amount charged [Exhibit C]. You say you believe the Exhibit B billing statements "are fully responsive to the request as written." However, you ask whether you must also release the more complete Exhibit C billing statements. You have marked those portions of the Exhibit C statements which you contend are excepted from required public disclosure under section 3(a)(7) of the Open Records Act. You deleted parts of these statements which indicate the

"attorney," the "hours" and the "amount" for each service rendered, because you say they are "irrelevant to the request." Finally, you submitted a copy of one of the Exhibit C statements without the deletions for "attorney," "hours" and "amount." (Exhibit "D").

We begin by considering whether the more complete statements of Exhibit C must also be released. As we stated in Open Records Letter OR93-090, a governmental body may ask for clarification from the requestor if it cannot reasonably understand a particular request. *See* Open Records Decision No. 304 (1982). You do not say that you have asked the requestor to clarify whether he seeks the Exhibit B or Exhibit C statements.

The request is for the "monthly payments to Wright and Associates. . . [which] should . . . state what the expenditure is for." The statements in Exhibit B do not describe the professional service rendered; thus, we think they do not "state what the expenditure is for." In contrast, the Exhibit C statements indicate the service rendered; thus, we think the Exhibit C statements provide information about "what the expenditure is for" and are responsive to the request. *See* Open Records Decision No 561 (1990) at 8 (governmental body must make good faith effort to relate a request to information held by it).

Section 3(a)(7) protects

matters in which the duty of the Attorney General of Texas or an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas are prohibited from disclosure, or which by order of a court are prohibited from disclosure. [Footnote omitted.]

Attorney-client communications may be withheld only to the extent that they reveal client confidences or attorney opinion and advice. Open Records Decision No. 574 (1990) at 3. Records of calls made, meetings attended, or memos sent, so long as no legal advice or client confidences are revealed, may not be excepted under section 3(a)(7). *Id.*; *see also* Open Records Decision No. 589 (1991).

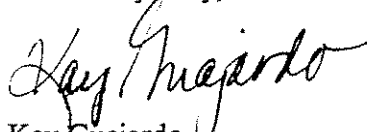
With regard to Exhibit "C" you advise us that "the information contained in the sections enclosed in black ink involve matters which are protected as client confidences *or* as attorney advice." (Emphasis added.) The Open Records Act places on the custodian of records the burden of proving that records are excepted from public disclosure. Attorney General Opinion H-436 (1974).

Most of what you marked is clearly not protected from disclosure by section 3(a)(7). For example, you marked documentation of calls made, meetings and conferences attended, memos reviewed or revised, depositions prepared and reviewed, and documents reviewed. Furthermore, you have not explained how the marked portions of Exhibit C constitute a client confidence or attorney advice or opinion. The billing statements do not reveal an explanation on their face. Merely marking the

information for which you seek section 3(a)(7) protection and stating that those marked portions constitute client confidences or attorney advice do not establish that section 3(a)(7) applies. *See* Attorney General Opinion H-436 (1976) (duty of governmental body to explain application of an exception). We thus have no basis for concluding that Exhibit "C" may be withheld under section 3(a)(7) of the Open Records Act. Accordingly, the billing statements must be released in their entirety. This means, of course, that they must be released without the deletions of the portions of the statements which indicate the "attorney," the "hours," and the "amount" for each service rendered. Your claim that those portions of the statements are "irrelevant" does not constitute a claim for an exception to required public disclosure under the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR93-212.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Opinion Committee

KHG/GCK/le

Ref.: ID# 19814
ID# 19682
ID# 19869

Enclosures: Submitted Documents

cc: Mr. Gary Vance
1121 Clark Trail
Grand Prairie, Texas 75052
(w/o enclosures)